

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application. Claims 1-17 and 20-52 are pending in this application.

35 U.S.C. § 102

Claims 1-8, 11-15, 29-36, and 38-52 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,496,802 to van Zoest et al. (hereinafter "van Zoest") and further in view of U.S. Patent Application Publication 2001/0051996 to Cooper et al. (hereinafter "Cooper"). Applicant respectfully submits that claims 1-8, 11-15, 29-36, and 38-52 are not obvious over van Zoest in view of Cooper.

van Zoest is directed to a system and method for providing access to electronic works (see, Title). Such electronic works may include songs, albums, movies, music videos, or a variety of other types of work (see, col. 2, lines 25-27). When a user requests access to a work, van Zoest verifies that the user is entitled to receive the desired work (see, col. 2, lines 36-40). This verification can be performed by the user demonstrating that they own a physical copy of the work or demonstrating that they ordered the requested work from a retailer or other distributor (see, col. 2, lines 40-44). Once the user adequately shows that they are authorized to receive the requested work, the user is provided with access to the work (see, col. 2, lines 45-47).

Cooper is directed to a network-based content distribution system (see, Title). In Cooper, a Copyright Registry System allows artists, copyright owners, and other content owners to register their valuable digital content (see, ¶ 94). A

consumer requests that a content file be registered (see, ¶ 98), and a Copyright Registration System website issues a new and unique digital certificate or unique message for the content file (see, ¶ 100). The Copyright Registry System website also watermarks each content file with a serial number or message for each new and unique digital certificate issued (see, ¶ 101). The watermarked copy of the user's content can be distributed over a network, and the digital certificate or message is generated to prove the authenticity of the person who filed with the Copyright Registry (see, ¶¶ 119-120). A player of content can check the Content Registry system to see if an identical digital certificate is being played by another player device (see, ¶ 124). If there is no match (no identical digital certificate in the Content Registry system), then the content file plays normally (see, ¶ 124).

With respect to claim 1, claim 1 recites

A system comprising:
a source database storing a plurality of highly compressed content pieces; and
a content player, coupled to the source database, including,
an interface to receive a subset of the plurality of highly compressed content pieces from the source database,
a storage device to store the subset,
a comparator to compare the subset to content and determine whether the content matches any of the plurality of highly compressed content pieces in the subset,
a resolver to take particular action in response to the comparator indicating the content matches one of the plurality of highly compressed content pieces in the subset, and
an output controller to render the content if the comparator indicates the content does not match any of the highly compressed content pieces in the subset.

Applicant respectfully submits that no such system is disclosed by van Zoest in view of Cooper.

In the March 28, 2005 Office Action at pp. 3-4, it is acknowledged that van Zoest does not disclose the output controller of claim 1, but Cooper is relied on as disclosing the output controller of claim 1. Applicant respectfully submits, however, that Cooper does not disclose or suggest an output controller to render the content if the comparator indicates the content does not match any of the highly compressed content pieces in the subset.

Cooper discusses allowing playback of a content file if there is no match in its database – this matching process is based on digital certificates which are unique to each copy of the content file (see, ¶ 124). A match in Cooper indicates that multiple users are attempting to play back the same copy of the content file having the same digital certificate. In contrast, the highly compressed content pieces of claim 1 do not uniquely identify different copies of the media content – in fact, it is typically expected that most legitimate copies of the media content will match the piece of highly compressed content for that media content. It would not have been obvious to use any highly compressed content pieces in place of the digital certificates of Cooper because such highly compressed content pieces do not uniquely identify each copy of a content file, and thus cannot be used to determine if multiple users are attempting to play back the same copy of the content file having the same digital certificate. As the digital certificates of Cooper and the highly compressed content pieces of claim 1 are two very different things, Applicant respectfully submits that the matching in Cooper based on the digital certificates cannot disclose or suggest an output controller to render the content if the comparator indicates the content does not match any of the highly compressed content pieces in the subset as recited in claim 1.

With respect to van Zoest, Applicant respectfully submits that van Zoest is not cited as curing, and does not cure, these deficiencies of Cooper. Accordingly, for at least these reasons, Applicant respectfully submits that claim 1 is allowable over van Zoest in view of Cooper.

With respect to claims 2-8 and 11-15, given that claims 2-8 and 11-15 depend from claim 1, Applicant respectfully submits that claims 2-8 and 11-15 are likewise allowable over van Zoest in view of Cooper for at least the reasons discussed above with respect to claim 1.

With respect to claim 29, Applicant respectfully submits that, similar to the discussion above regarding claim 1, van Zoest in view of Cooper does not disclose or suggest playing back the content if the determining indicates the portion of media content does not match any of the set of highly compressed pieces as recited in claim 29. Accordingly, for at least these reasons, Applicant respectfully submits that claim 29 is allowable over van Zoest in view of Cooper.

With respect to claims 30-36 and 38-39, given that claims 30-36 and 38-39 depend from claim 29, Applicant respectfully submits that claims 30-36 and 38-39 are likewise allowable over van Zoest in view of Cooper for at least the reasons discussed above with respect to claim 29.

With respect to claim 40, Applicant respectfully submits that, similar to the discussion above regarding claim 1, van Zoest in view of Cooper does not disclose or suggest rendering the content if the determining indicates the portion of media content does not match any of the set of highly compressed pieces as recited in claim 40. Accordingly, for at least these reasons, Applicant respectfully submits that claim 40 is allowable over van Zoest in view of Cooper.

With respect to claim 41, Applicant respectfully submits that, similar to the discussion above regarding claim 1, van Zoest in view of Cooper does not disclose or suggest means for playing back the content if the determining indicates the portion of media content does not match any of the set of highly compressed pieces as recited in claim 41. Accordingly, for at least these reasons, Applicant respectfully submits that claim 41 is allowable over van Zoest in view of Cooper.

With respect to claims 42-45, given that claims 42-45 depend from claim 41, Applicant respectfully submits that claims 42-45 are likewise allowable over van Zoest in view of Cooper for at least the reasons discussed above with respect to claim 41.

With respect to claim 46, Applicant respectfully submits that, similar to the discussion above regarding claim 1, van Zoest in view of Cooper does not disclose or suggest allowing the portion of media content to be played back if the portion of media content does not match the piece of highly compressed content as recited in claim 46. Accordingly, for at least these reasons, Applicant respectfully submits that claim 46 is allowable over van Zoest in view of Cooper.

With respect to claims 47-52, given that claims 47-52 depend from claim 46, Applicant respectfully submits that claims 47-52 are likewise allowable over van Zoest in view of Cooper for at least the reasons discussed above with respect to claim 46.

Claims 9-10, 16-17, 20-28, and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over van Zoest et al. and further in view of U.S. Patent No. 6,766,305 to Fucarile et al. (hereinafter "Fucarile"). Applicant respectfully

submits that claims 9-10, 16-17, 20-28, and 37 are not obvious over van Zoest in view of Fucarile.

Fucarile is directed to systems and methods for embedded licensing in a distributed computer environment (see, col. 1, lines 8-9). Fucarile includes a plug-in or application running on a user computer (see, col. 3, lines 34-35). The plug-in is adapted to access content on a content server (see, col. 3, lines 35-36). The content includes a special licensing form and the plug-in is further adapted to scan the content for such licensing form (see, col. 3, lines 36-38). Depending on the information in the licensing form, the plug-in determines if the license governing the content is an implicit or explicit license (see, col. 3, lines 39-41). If the license is valid, the content is processed (see, col. 3, lines 44-45).

Applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art to combine van Zoest and Fucarile. As discussed above, when a user requests access to a work, van Zoest verifies that the user is entitled to receive the desired work (see, col. 2, lines 36-40). Once the user adequately shows that they are authorized to receive the requested work, the user is provided with access to the work (see, col. 2, lines 45-47). As this process of van Zoest verifies that the user is authorized to receive the desired work, there is no reason to check whether a license for the content is valid so that the content can be processed as disclosed in Fucarile. If the determination has already been made that the user is authorized to receive a desired work, Applicant respectfully submits that one of ordinary skill in the art would not have been motivated to then check whether a license is valid so that the content can be processed.

Furthermore, assuming for the sake of argument that van Zoest and Fucarile were combined, Applicant respectfully submits that the combination of van Zoest and Fucarile does not disclose or suggest the system of claim 9. Claim 9 recites:

A system comprising:
a source database storing a plurality of highly compressed content pieces; and
a content player, coupled to the source database, including,
an interface to receive a subset of the plurality of highly compressed content pieces from the source database,
a storage device to store the subset,
a comparator to compare the subset to content and determine whether the content matches any of the plurality of highly compressed content pieces in the subset, and
a resolver to take particular action in response to the comparator indicating the content matches one of the plurality of highly compressed content pieces in the subset,
wherein the storage device is further to store a plurality of licenses identifying content that a user of the content player is authorized to playback, and wherein the particular action comprises the resolver checking whether one of the plurality of licenses corresponds to the content.

Applicant respectfully submits that no such system is disclosed or suggested by van Zoest in view of Fucarile.

As can be seen in claim 9, the content player includes a comparator to compare the subset to content and determine whether the content matches any of the plurality of highly compressed content pieces in the subset, and a resolver to take particular action in response to the comparator indicating the content matches one of the plurality of highly compressed content pieces in the subset. This particular action in claim 9 comprises the resolver checking whether one of the plurality of licenses corresponds to the content.

In the March 28, 2005 Office Action at pp 7-8, it is acknowledged that van Zoest does not disclose wherein the storage device is further to store a plurality of licenses identifying content that a user of the content player is authorized to playback, and wherein the particular action comprises the resolver checking whether one of the plurality of licenses corresponds to the content, but that this element is disclosed by Fucarile.

However, as discussed above, in van Zoest once the user adequately shows that they are authorized to receive the requested work, the user is provided with access to the work (see, col. 2, lines 45-47). This verification can be performed by the user demonstrating that they own a physical copy of the work or demonstrating that they ordered the requested work from a retailer or other distributor (see, col. 2, lines 40-44). After the user in van Zoest has adequately shown that they are authorized to receive the requested work, it would have been nonsensical for a check to then be made as to whether one of a plurality of licenses corresponds to the content. If the user has already adequately shown that they are authorized to receive the requested work, why would there be any need to check a license for the content? Accordingly, Applicant respectfully submits that even with the discussion of the licenses in Fucarile, Fucarile does not disclose or suggest the resolver checking whether one of the plurality of licenses corresponds to the content as recited in claim 9.

With respect to van Zoest, Applicant respectfully submits that van Zoest is not cited as curing, and does not cure, these deficiencies of Fucarile. Accordingly, for at least these reasons, Applicant respectfully submits that claim 9 is allowable over van Zoest in view of Fucarile.

With respect to claim 10, given that claim 10 depends from claim 9, Applicant respectfully submits that claim 10 is likewise allowable over van Zoest in view of Fucarile for at least the reasons discussed above with respect to claim 9.

With respect to claim 16, Applicant respectfully submits that it would not have been obvious to combine van Zoest and Fucarile as discussed above. Furthermore, Applicant respectfully submits that, similar to the discussion above regarding claim 9, van Zoest in view of Fucarile does not disclose or suggest a resolver, coupled to the comparator, to take a particular action in response to the comparator indicating the content matches one of the plurality of highly compressed content pieces in the subset, wherein the particular action comprises checking to see whether the system has a valid license for the content as recited in claim 16. Accordingly, for at least these reasons, Applicant respectfully submits that claim 16 is allowable over van Zoest in view of Fucarile.

With respect to claims 17 and 20-28, given that claims 17 and 20-28 depend from claim 16, Applicant respectfully submits that claim 17 and 20-28 are likewise allowable over van Zoest in view of Fucarile for at least the reasons discussed above with respect to claim 16.

With respect to claim 37, Applicant respectfully submits that it would not have been obvious to combine van Zoest and Fucarile as discussed above. Furthermore, Applicant respectfully submits that, similar to the discussion above regarding claim 9, van Zoest in view of Fucarile does not disclose or suggest taking a programmed action if the portion of media content matches any of the set of highly compressed pieces, wherein the programmed action comprises checking whether one of a plurality of licenses maintained at a content player performing

the comparing corresponds to the portion of media content as recited in claim 37. Accordingly, for at least these reasons, Applicant respectfully submits that claim 37 is allowable over van Zoest in view of Fucarile.

Applicant respectfully requests that the §103 rejections be withdrawn.

Conclusion

Claims 1-17 and 20-52 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

Date: 6/28/05

By:



Allan T. Sponseller
Reg. No. 38,318
(509) 324-9256